

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**KEYPORT AUTO BODY d/b/a  
SHAMROCK STAGECOACH**

**and**

**Case 22-CA-122665**

**SURIEL CRESENCIA, ET AL.**

**ORDER**

The Employer's petition to revoke Subpoena B-726545 is denied.<sup>1</sup> The subpoena seeks information relevant to the matter under investigation and describes with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations.<sup>2</sup> Further, the Employer has failed to establish any other legal basis for revoking the subpoena. See generally *NLRB v. North Bay Plumbing, Inc.*, 102 F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996).<sup>3</sup>

Dated, Washington, D.C., July 23, 2014

MARK GASTON PEARCE,	CHAIRMAN
PHILIP A. MISCIMARRA,	MEMBER
KENT Y. HIROZAWA,	MEMBER

---

<sup>1</sup> In addition, the Employer's request for a hearing on its petition to revoke is denied.

<sup>2</sup> The Employer's request that its petition to revoke be made part of the official record in this case is denied as premature, without prejudice to the Employer renewing this request if these investigative proceedings progress to the stage where an official record is created.

<sup>3</sup> The Employer's argument that the subpoena should be revoked because the unfair labor practice charge is barred by Sec. 10(b) is without merit. Issues regarding Sec. 10(b) are generally not considered in an investigative subpoena context. See, e.g., *NLRB v. The Bakersfield Californian*, 128 F.3d 1339, 1341 (9th Cir. 1997) ("Like other defenses to an unfair labor practice complaint, a section 10(b) statute of limitations defense is not properly evaluated in a subpoena enforcement proceeding").